

Confidential

M E M O R A N D U M

February 20, 1964

To: Mr. Toms  
Mr. Horan  
From: FPH



This memorandum will summarize the meeting of executives of various tobacco companies held yesterday.

Mr. Gray obtained the acquiescence of the group to the opening of a New York office of The Tobacco Institute, Inc. in a portion of the space previously occupied by T.I.P.C. The rent will be in the neighborhood of \$9,000 a year and with the addition of a man expert in media and a secretary-receptionist, it is expected that the annual expenses will be in the neighborhood of \$30,000. It was felt best not to bring Mr. DeHart back to New York since he has become most useful in Washington, but to hire a new man for the New York office.

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Mr. Austern circulated the latest revisions of his proposed statement to the F.T.C. He stated at the outset that it was the consensus of the Special Lawyers Committee that a single statement should be made on behalf of the industry rather than a number of statements by representatives of individual companies. He stated that the reasons for this were obvious but did not go into detail. The fact is that counsel

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were in agreement that if representatives of individual companies were to make a presentation to the F.T.C., they might be faced with embarrassing questions as to particular advertising and that conflicting statements as to the proposed Trade Regulation Rules might be voiced. Pointed interrogation is expected by members of the Commission and it was thought that Mr. Austern as the spokesman for the industry, through the Institute, would be best able to "field" these questions, to plead ignorance as to ads, etc. Mr. Austern stated that counsel had agreed that the presentation should be made by a lawyer and that he had been nominated and was willing to serve subject to the approval of those present.

Mr. Austern stated that his proposed statement, a copy of which is in Mr. Toms' hands, was based on three predicates and was confined to legal argument. The predicates are as follows:

1. He does not propose to enter into a debate or argue the merits of the Advisory Committee Report to the Surgeon General. This he believes would be detrimental to our position and he does not believe that the Hearing is the time or the place for such argument.

2. He will not be drawn into any discussion of individual company advertising but has a built-in "escape hatch" to the effect that, if desirable, advertising can be discussed with the F.T.C. staff at another time.

3. Since the F.T.C. Hearing will be widely publicized, Mr. Austern and counsel generally were aware of the danger that the industry might be regarded by the press as indifferent or obdurate. He therefore believes that it is important for him to make a statement (see new rider p. 12) to the effect that the industry is at work on advertising guidelines which it will discuss at the proper time with interested Government agencies. Austern does not want to mention what the companies have done in this respect, nor does he wish to be advised of the status of the proposed guidelines as of the date of the F.T.C. Hearing. He knows that each company has taken some steps with regard to advertising in view of the Surgeon General's Report but since revisions have not been entirely successful he does not wish to be drawn into this.

Mr. Austern trusts that the proposed statement will be given a thorough reading by the executives and that any comments they may have to offer will be forthcoming soon.

There was discussion as to who should attend the F.T.C. Hearing and it was agreed that no executive, advertising agency, lawyer, or anyone else other than Mr. Austern should be present.

Mr. Austern referred to the necessity for each company to notify the F.T.C. that it was appearing in the proceedings and would adopt a statement to be made by the Institute. A copy of my proposed letter is annexed hereto.

Mr. Austern stated that he did not wish to be put in a position where, if questioned, he would have to say that there was any disagreement amongst the six companies in respect to their attitude as to the proposed rules, particularly proposed Rule 3. As you know, American Tobacco Company favors Rule 3 even if it means, in conjunction with proposed Rule 2, that it will have to disclaim any health significance in stating the tar and nicotine content on individual packages.

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Next discussed was the identity of persons who may be expected to appear and make statements in opposition to the proposed rule-making. See my memorandum dated February 15. In addition, Dr. Welch and Mr. Tenko will approach Mr. Fleischer, the attorney for the Retail Tobacco Dealers Association, who has indicated he would like to make a

statement. Mr. Toms suggested the Supermarket Institute of America and Mr. Austern will make inquiries in this respect as well as the National Association of Food Chains.

It was agreed that there would be no advance release of Mr. Austern's statement although a blind summary of what he proposes to say will be submitted to the F.T.C. on or before March 5, and it was left open whether there might be a press release with respect to this summary.

Next discussed was a proposed position statement prepared by the Ad Hoc Committee and containing criticism of the Surgeon General's Report. It was agreed that the position statement should be submitted to Hill & Knowlton for polishing and that the statement would, when next submitted, contain the four corners within which company executives could answer questions addressed to the Surgeon General's Report at the forthcoming annual meetings. In connection with the position statement all present agreed that the alternate first paragraph annexed to the end of the position statement was preferable.

There was considerable discussion of the desirability of having counsel meet and attempt to come to agreement as to a proposed industry guideline which would include advertising as well as promotional practices. It is obvious that any such guidelines would encompass certain practices which are within the F.T.C. jurisdiction and others that would not be. A

meeting has been scheduled for 2 p. m. February 24 at the Perkins office for initial discussions of the matter and counsel were directed to intensify their efforts in this respect.

Finally, there was discussion of the desirability of circulating copies of the Donahue article in the Richmond paper, Maxwell's article in Printers Ink, the German study by Poche and statements made by Drs. Rosenblatt and Greene in the Journal American. This was tabled pending formalization of Hill & Knowlton's public relations program for 1966.

The desirability of having research directors and counsel meet as a group to try to formulate the exchange of research information was considered and was deemed advisable after more pressing matters have been disposed of. It was also agreed that any material that the industry may send to the A.M.A. will also be supplied to the S.A.B.

*F. P. H.*

F. P. Haas